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HOUSE BILL 252

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Andy Nunez

AN ACT

RELATING TO TAXATION; PROVIDING A PERSONAL INCOME TAX CREDIT
AND A CORPORATE INCOME TAX CREDIT FOR AGRICULTURAL WATER
CONSERVATION EXPENSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Income Tax Act is enacted
to read:

"[NEW MATERIAL] TAX CREDIT-- AGRICULTURAL WATER
CONSERVATION EXPENSES. --

A. A taxpayer may claim a credit against his income
tax liability equal to seventy-five percent of his incurred
expenses, not to exceed a maximum annual credit of fifty
thousand dollars (\$50,000), for eligible improvements in
irrigation systems or water management methods. The credit may
be claimed for the taxable year in which the expenses are

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underscored material = new
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1 incurred if the taxpayer in that year:

2 (1) owned or leased a water right appurtenant
3 to the land on which an eligible improvement was made;

4 (2) files an individual New Mexico income tax
5 return; and

6 (3) is not a dependent of another individual.

7 B. As used in this section, "eligible improvement
8 in irrigation systems or water management methods" means an
9 improvement that is:

10 (1) made after January 1, 2004;

11 (2) consistent and complies with a water
12 conservation plan approved by the local soil and water
13 conservation district in which the improvement is located; and

14 (3) primarily designed to substantially
15 conserve water on land in New Mexico that is owned or leased by
16 the taxpayer and used by the taxpayer or the taxpayer's lessee
17 to:

18 (a) produce agricultural products;

19 (b) harvest or grow trees; or

20 (c) sustain livestock.

21 C. Taxpayers who are considered for federal income
22 tax purposes as co-owners of the land on which an eligible
23 improvement in irrigation systems or water management methods
24 is made may claim the pro rata share of the credit allowed
25 pursuant to this section based on the co-owner's ownership

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underscored material = new
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1 interest. The total of the credits allowed all the taxpayers
2 considered co-owners may not exceed the amount that would have
3 been allowed a sole owner of the land.

4 D. A husband and wife who file separate returns for
5 a taxable year in which they could have filed a joint return
6 may each claim only one-half of the credit that would have been
7 allowed on a joint return.

8 E. If the allowable tax credit in a taxable year
9 exceeds the income taxes otherwise due from a taxpayer pursuant
10 to the Income Tax Act, or if there are no income taxes due from
11 the taxpayer, the taxpayer may carry forward the amount of the
12 credit not used in that year to offset the taxpayer's liability
13 for income taxes pursuant to the Income Tax Act for not more
14 than five consecutive taxable years.

15 F. The soil and water conservation commission shall
16 promulgate rules to implement this section, and those rules
17 shall include detailed guidelines to assist the department in
18 determining whether improvements in irrigation systems or water
19 management methods qualify for the credit available under this
20 section. "

21 Section 2. A new section of the Corporate Income and
22 Franchise Tax Act is enacted to read:

23 " [NEW MATERIAL] TAX CREDIT-- AGRICULTURAL WATER
24 CONSERVATION EXPENSES. --

25 A. A taxpayer may claim a credit against his

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1 corporate income tax liability equal to seventy-five percent of
2 his incurred expenses, not to exceed a maximum annual credit of
3 fifty thousand dollars (\$50,000), for eligible improvements in
4 irrigation systems or water management methods. The credit may
5 be claimed for the taxable year in which the expenses are
6 incurred if the taxpayer in that year:

7 (1) owned or leased a water right appurtenant
8 to the land on which an eligible improvement was made; and

9 (2) files a New Mexico corporate income tax
10 return.

11 B. As used in this section, "eligible improvement
12 in irrigation systems or water management methods" means an
13 improvement that is:

14 (1) made after January 1, 2004;

15 (2) consistent and complies with a water
16 conservation plan approved by the local soil and water
17 conservation district in which the improvement is located; and

18 (3) primarily designed to substantially
19 conserve water on land in New Mexico that is owned or leased by
20 the taxpayer and used by the taxpayer or the taxpayer's lessee
21 to:

22 (a) produce agricultural products;

23 (b) harvest or grow trees; or

24 (c) sustain livestock.

25 C. Taxpayers that are considered for federal income

underscored material = new
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1 tax purposes as co-owners of the land on which an eligible
2 improvement in irrigation systems or water management methods
3 is made may claim the pro rata share of the credit allowed
4 pursuant to this section based on the co-owner's ownership
5 interest. The total of the credits allowed all the taxpayers
6 considered co-owners may not exceed the amount that would have
7 been allowed a sole owner of the land.

8 D. If the allowable tax credit in a taxable year
9 exceeds the income taxes otherwise due from a taxpayer pursuant
10 to the Corporate Income and Franchise Tax Act, or if there are
11 no taxes due pursuant to the Corporate Income and Franchise Tax
12 Act, the taxpayer may carry forward the amount of the credit
13 not used in that year to offset the taxpayer's liability for
14 income taxes pursuant to the Corporate Income and Franchise Tax
15 Act for not more than five consecutive tax years.

16 E. The soil and water conservation commission shall
17 promulgate rules to implement this section, and those rules
18 shall include detailed guidelines to assist the department in
19 determining whether improvements in irrigation systems or water
20 management methods qualify for the credit available under this
21 section. "

22 Section 3. APPLICABILITY. --The provisions of this act
23 apply to taxable years beginning on and after January 1, 2004.